



APPLICATION ACCEPTED: June 18, 2013  
BOARD OF ZONING APPEALS: September 25, 2013\*  
\*Moved at the applicant's request  
TIME: 9:00 a.m.

## County of Fairfax, Virginia

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September 18, 2013

### STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-DR-046

### DRANESVILLE DISTRICT

**APPLICANTS &  
OWNERS:**

Paul R. and Ann P. Lawrence

**STREET ADDRESS:**

2042 Virginia Avenue, McLean, 22101

**SUBDIVISION:**

Franklin Forest

**TAX MAP REFERENCE:**

41-1 ((C7)) 1

**LOT SIZE:**

32,294 square feet

**ZONING DISTRICT:**

R-2

**ZONING ORDINANCE PROVISION:**

8-923

**SPECIAL PERMIT PROPOSAL:**

To permit fence greater than 4.0 feet in height  
to remain in front yards of a corner lot.

A copy of the BZA's Resolution setting forth this decision will be mailed within five days  
after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any  
easement, covenants, or other agreements between parties, as they may apply to the  
property subject to this application.

*O:\rhorner\Special Permits\Lawrence fence\Lawrence staff report fence.doc*

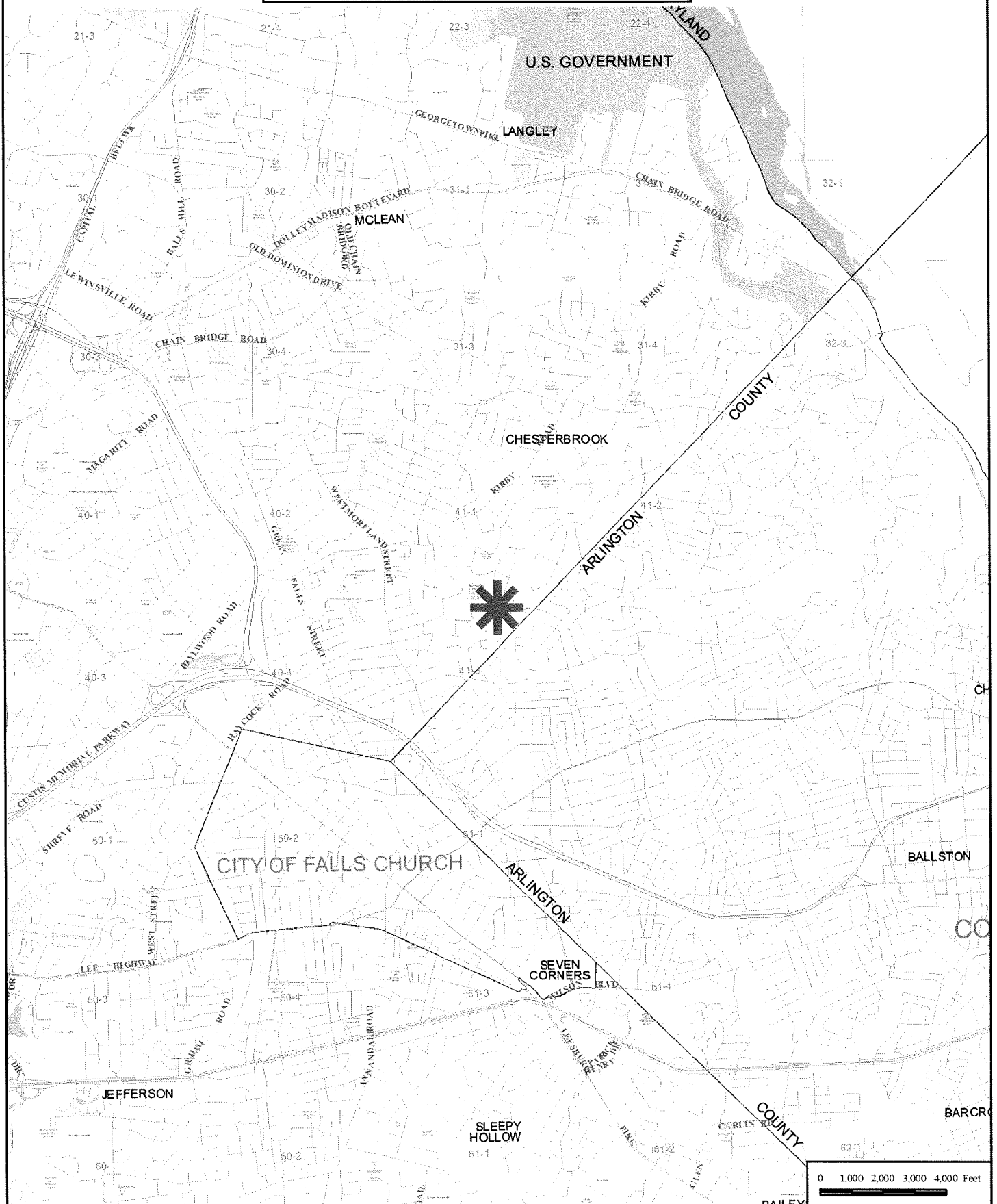
*Rebecca Horner*

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

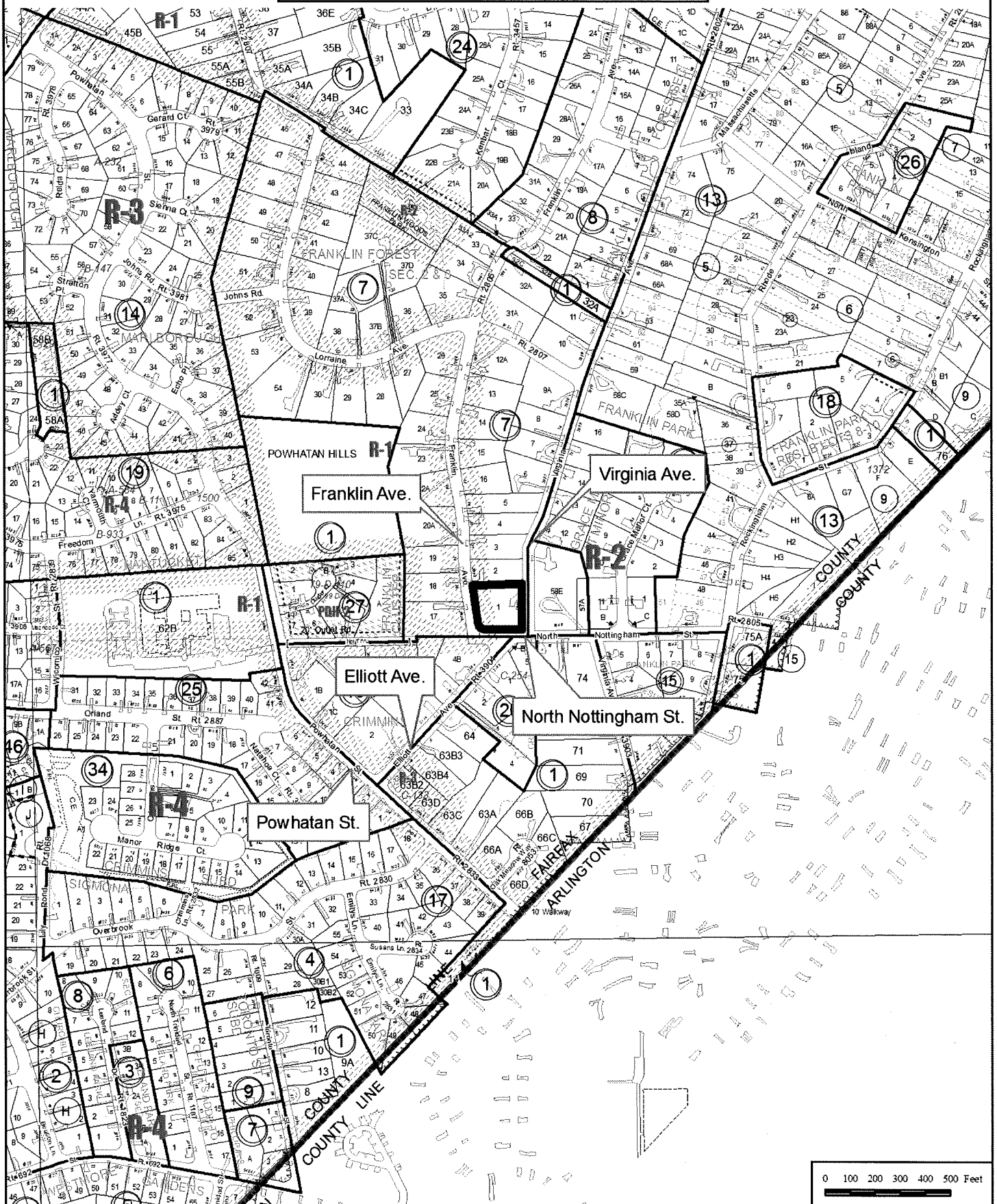


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2013-DR-046**  
**PAUL & ANN LAWRENCE**



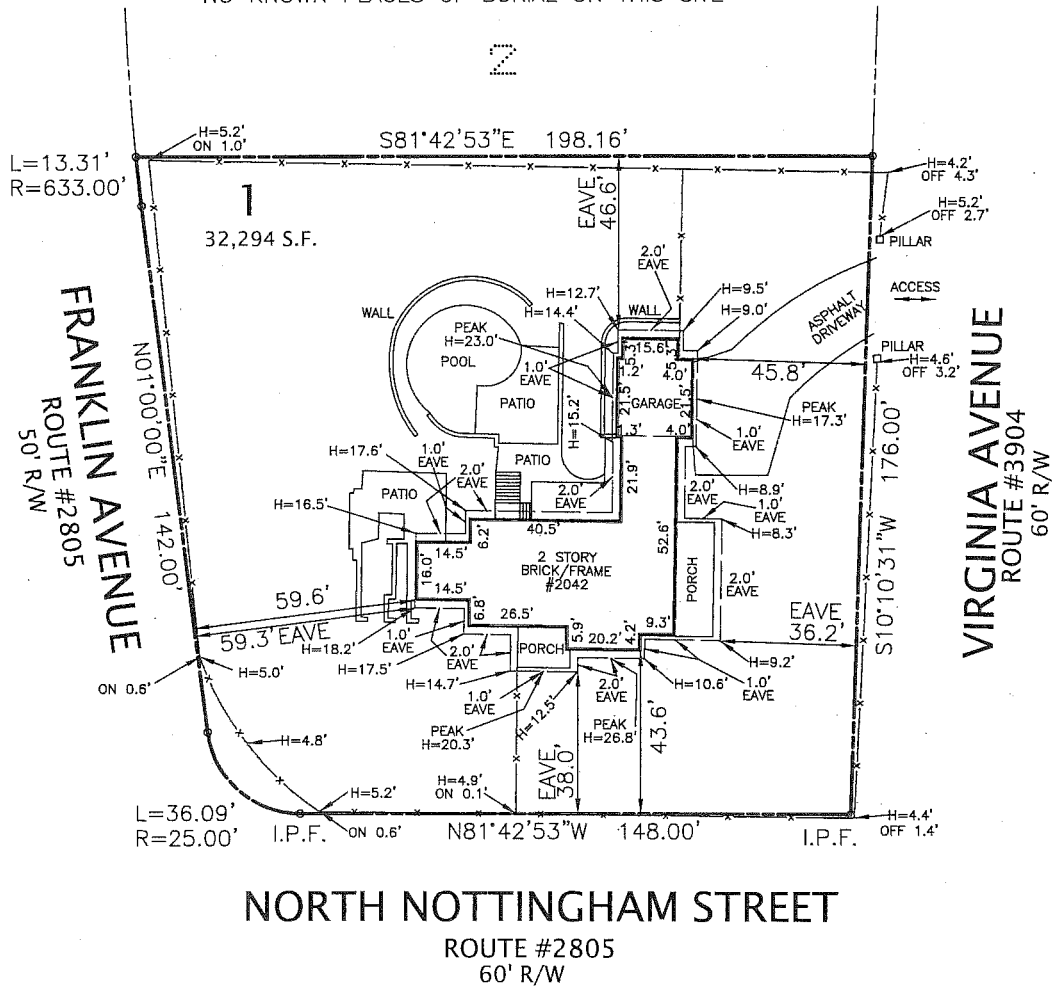
**Special Permit**  
**SP 2013-DR-046**  
**PAUL & ANN LAWRENCE**





NOTES:

MAP# 041-1 ((07)) 0001  
 ZONED: R-2, FRONT YARD = 35', SIDE YARD=15', REAR=25'.  
 PARKING INCLUDES 2 CAR GARAGE  
 PROPERTY SERVED BY PUBLIC SEWER & WATER  
 NO LAND DISTURBANCE PROPOSED  
 SITE CONTAINS NO RPA OR FLOOD PLAIN  
 NO EASEMENTS GREATER THAN 25' ON SITE  
 NO KNOWN PLACES OF BURIAL ON THIS SITE



NORTH NOTTINGHAM STREET  
 ROUTE #2805  
 60' R/W

SPECIAL PERMIT PLAT  
 FOR THE PROPERTY LOCATED ON  
 LOT 1 SECTION 2

FRANKLIN FOREST  
 FAIRFAX COUNTY, VIRGINIA

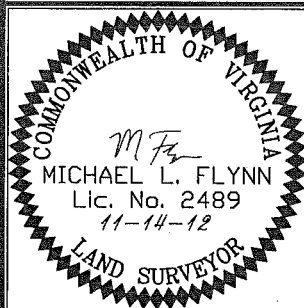
SCALE: 1" = 40'

NOVEMBER 14, 2012

RECEIVED  
 Department of Planning & Zoning  
 DEC 14 2012  
 Zoning Evaluation Division

CASE NAME:

GRAPHIC SCALE



BY PROVISIONS OF THE VIRGINIA CODE: NO CORNER MARKERS SET.  
 BOUNDARY SURVEY NOT PERFORMED.  
 PLAT SUBJECT TO RESTRICTIONS OF RECORD, TITLE REPORT NOT FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS  
 OF ALL THE EXISTING IMPROVEMENTS  
 HAVE BEEN CAREFULLY ESTABLISHED BY  
 A CURRENT FIELD SURVEY, AND UNLESS  
 OTHERWISE SHOWN, THERE ARE NO  
 VISIBLE ENCROACHMENTS.

REQUESTED BY:

ANN LAWRENCE

ALEXANDRIA SURVEYS, LLC

3949 PENDER DRIVE, STE #120 FAIRFAX, VIRGINIA 22030  
 TEL. NO. 703-660-6615 FAX NO. 703-768-7764

05/26/2013 12:39





10/06/2012 13:32







10/06/2012 13:32



10/06/2012 13:37





10/06/2012 13:36

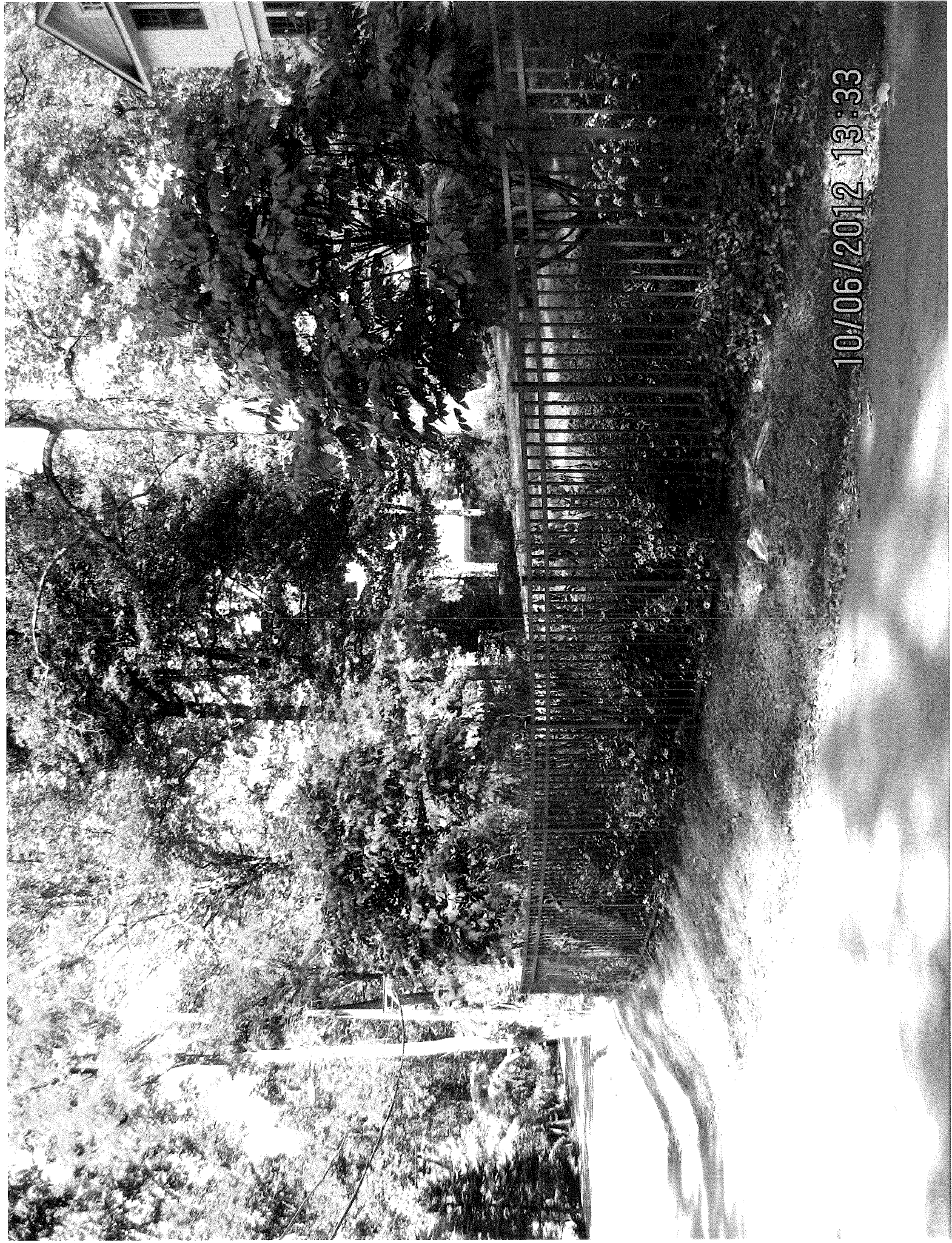




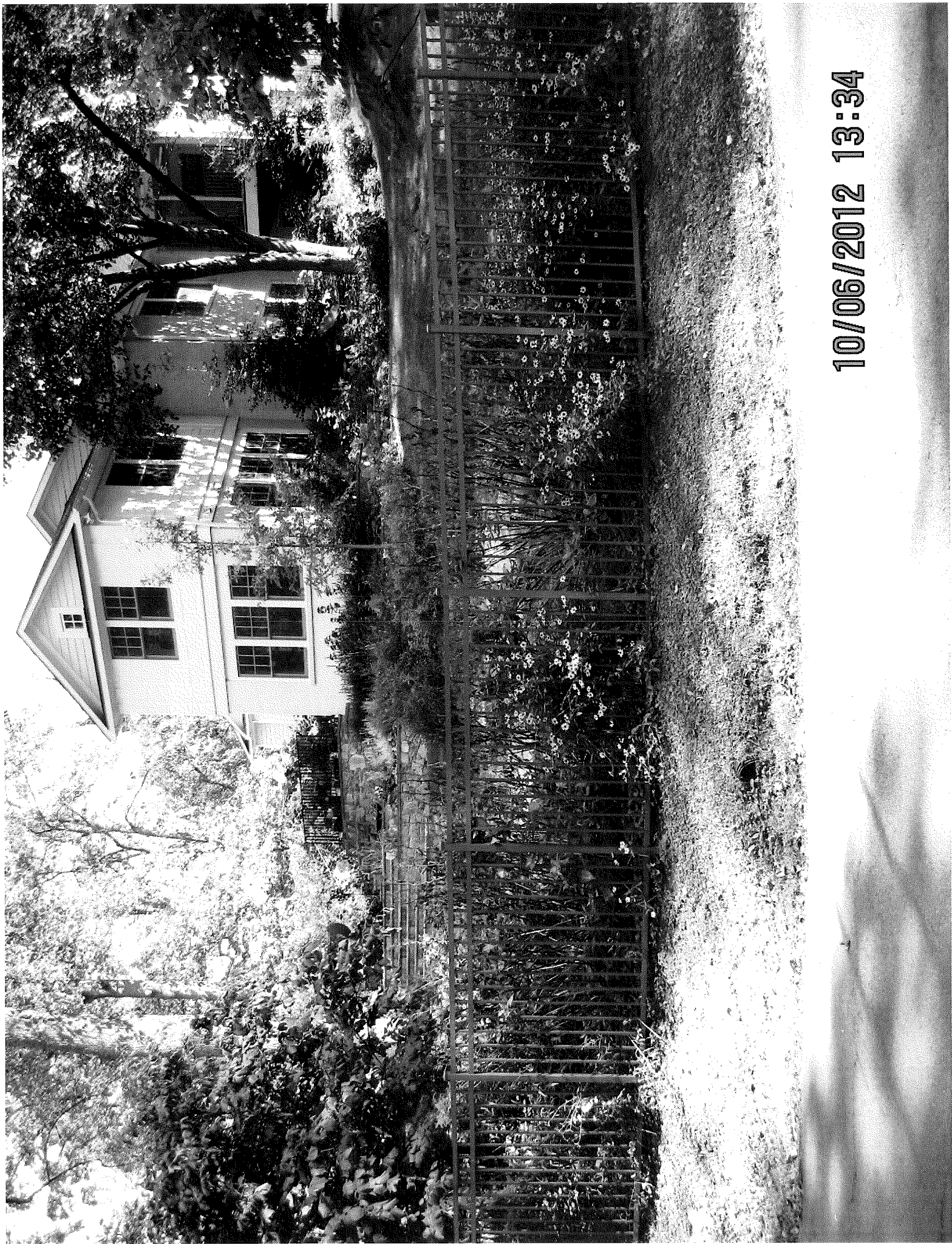
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10/06/2012 13:33







10/06/2012 13:34



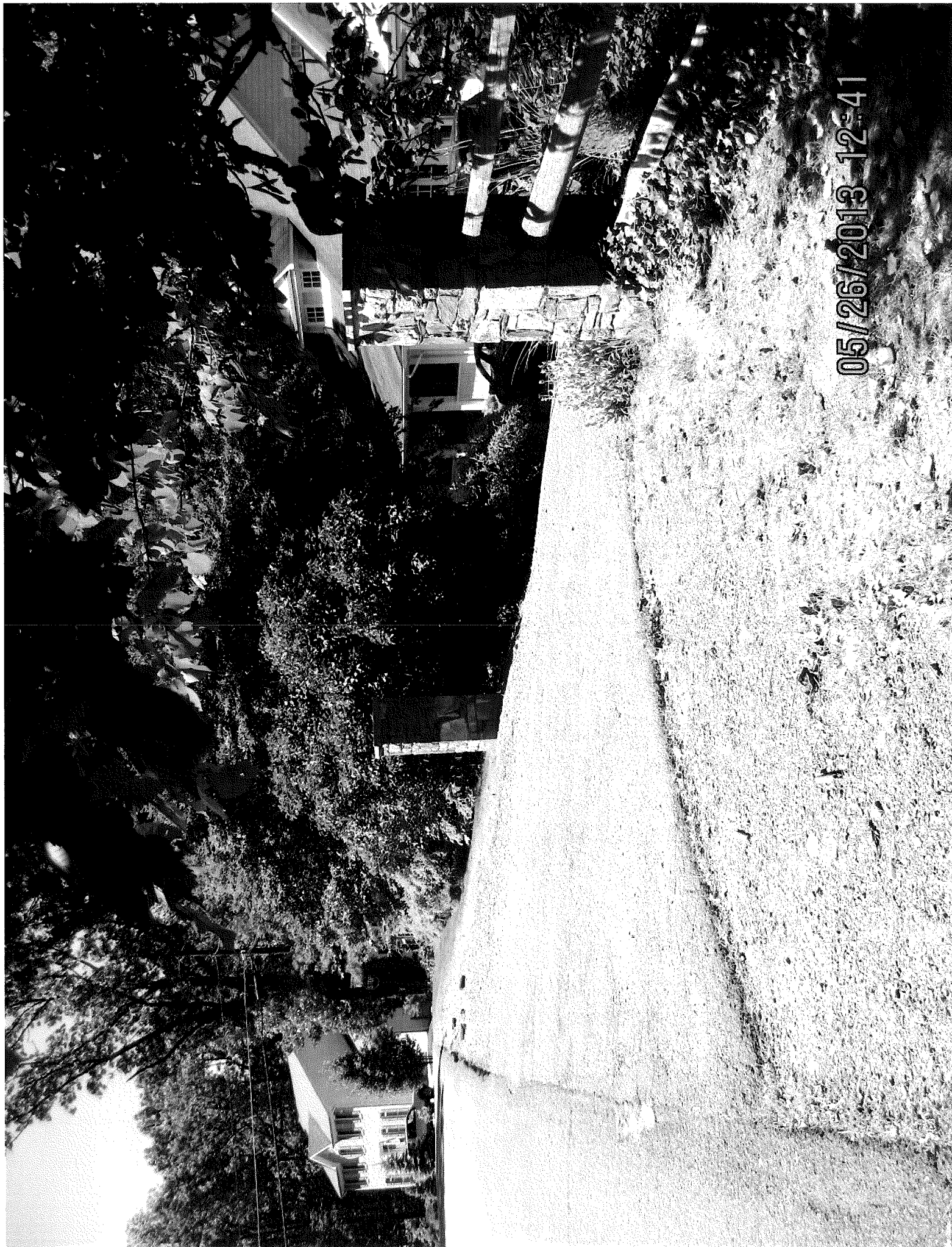
10/06/2012 13:36





05/26/2013 12:44





05/26/2013 12:41

## **DESCRIPTION OF SPECIAL PERMIT REQUEST**

The applicant is seeking a special permit to allow an existing fence greater than 4.0 feet in height to remain in the front yards of a corner lot.

The applicant requests to allow the fencing, ranging in height from 4.4 feet to 5.2 feet located within the western front yard (Franklin Avenue) and southern front yard (North Nottingham Street) to remain. The fence is also located along Virginia Avenue within the right of way. The applicant indicates they constructed the fence to improve the visual appearance of the lot, based on a recommendation from a landscape designer.

The Zoning Ordinance currently permits fences 4.0 feet in height in a front yard by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height.

The fence appears to be located outside of the required sight distance per Section 2-505 of the Zoning Ordinance.

A special permit plat prepared by Alexandria Surveys, LLC, dated November 14, 2012, and signed by Michael L. Flynn, Land Surveyor, is included at the front of this report.

## **CHARACTER OF THE SITE AND SURROUNDING AREA**

The 32,294 square foot lot is currently zoned R-2 and developed with two-story single family detached dwelling. The corner lot has three front yards; Franklin Avenue, Virginia Avenue and North Nottingham Street. The dwelling faces North Nottingham Street and Virginia Avenue. The site is accessed via a hard surfaced driveway from Virginia Avenue which extends to an attached garage. Patios project off the rear of the dwelling adjacent to an in-ground pool.

An existing fence, ranging in height from 4.2 feet to 5.2 feet surrounds the property. Fencing along portions of the property varies from metal picket fencing to wood split rail fencing, as shown in the photographs at the front of the report. Two 5.2 feet and 4.6 feet tall gate posts are located on either side of the driveway entrance. The fencing and gate posts located along Virginia Avenue are offset from the property and within the street right-of-way.

The yard contains numerous mature trees, shrubs and foundation plantings.

The image below illustrates the general character of the surrounding area. To the north and west are lots in the Franklin Forest Subdivision developed with single family detached dwellings. To the south and east are also lots developed with single family dwellings; all are zoned R-2.



## BACKGROUND

The single-story house on the subject property was constructed in 1960. An in-ground swimming pool with spa was constructed in 2004. The applicant constructed fencing around the property at the same time as the pool was installed, to replace an existing 4.0 foot tall split-rail fence. A second-story addition was constructed in 2010.

On September 11, 2012, the Zoning Inspections Division conducted a site visit and determined there was a zoning violation. On September 27, 2012, a Notice of Violation (NOV) was sent to the property owners citing them for a fence greater than 4.0 feet in height in front yards. A copy of the NOV is attached as Appendix 4.

County records reflect that there have been four similar cases for fences in the vicinity. The similar case history is included as Appendix 5.

## ZONING ORDINANCE REQUIREMENTS

This special permit is subject to Sects. 8-006, 8-903 and 8-923 of the Zoning Ordinance, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

## **CONCLUSION**

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated September 27, 2012
5. Similar Case History
6. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2013-DR-046**

**September 18, 2013**

1. This special permit is approved for the location and maximum height of fencing as shown on the plat prepared by Alexandria Surveys, LLC, dated November 14, 2012, submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.



Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

## SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec 13, 2012  
(enter date affidavit is notarized)

I, Ann Lawrence, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one) ☒ applicant  
☐ applicant's authorized agent listed in Par. 1(a) below

119307

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE:** All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
Ann P Lawrence	2042 Virginia Ave McLean VA 22101	co-owner/spouse
Paul R Lawrence	2042 Virginia Ave McLean VA 22101	co-owner/spouse

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Dec. 13, 2012  
(enter date affidavit is notarized)

119307

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(**NOTE:** Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Dec. 13, 2012  
(enter date affidavit is notarized)

1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Dec. 13, 2012  
(enter date affidavit is notarized)

119307

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (**NOTE:** If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Five

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Dec. 13, 2012  
(enter date affidavit is notarized)

119307

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)**

None

**(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[X] Applicant

☐ Applicant's Authorized Agent

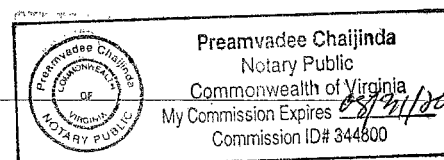
Ann P Lawrence

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 13<sup>th</sup> day of DECEMBER, 2012, in the State/Comm. of VIRGINIA, County/City of PRINCE GEORGE.

[Signature]  
Notary Public

My commission expires: 08/31/2016



### Owners' Justification for a Special Permit for Fencing

We are requesting a Special Permit because our fencing exceeds County codes regarding fence heights.

#### Description of Property

Our property is bounded by streets on 3 sides, Virginia Ave, North Nottingham St and Franklin Ave, accordingly we have 3 front yards.

#### **History**

- 1987 Purchased the property, the house faced North Nottingham St. A 4 foot split rail fence ran the entire property line.
- 1998 Significantly renovated the house and made Virginia Ave the front of the house
- 2004 Added a pool and replaced the rail fence with a 5 foot Jerith transparent fence along Franklin Ave and part of North Nottingham St  
Landscaped yard from pool to fence line with planted beds.
- 2006 Planted 6-12 foot wide landscaped flower beds along the North Nottingham St fence line and around corner of Franklin Ave, completing the yard landscaping
- 2010 Expanded home, adding Franklin Ave patio and water feature
- 2012 Received fence height violation notice

#### **Good Faith Error**

In 2004 we added a pool to our yard, a project approved by Fairfax County. We did not know that Franklin Ave and North Nottingham St were also front yards of our property. We installed the 5 ft fence. The pool area was professionally landscaped and the designer suggested a transparent fence. Because our land slopes significantly, our entire yard is always viewed. The transparent fence would be the best looking alternative. We asked our neighbor whose land touches ours, what kind of fence he would like. Everyone liked the look and quality of the transparent fence, so we replaced the split rail fence on North Nottingham and Franklin Ave with a 5 foot high aluminum fence. We had no idea that we were in violation of Fairfax County regulations.

#### County Concerns from Section 8-923

##### 1. Fence Height

Virginia Ave fence: A 4 foot high split rail wooden fence runs along the Virginia Ave. The wooden split rail fence has 10 foot wide sections and has 3 horizontal rails in each section. Posts measure higher than 4 feet, but the rails are at 4 feet. It is an open fence with no wire or other backing.

North Nottingham St: Half of the North Nottingham St side of our property is split rail, as described above, and half is Jerith transparent fencing, described below.

Franklin Ave: A 5 foot high transparent Jerith fence is in 6 foot wide sections and has vertical rails of  $\frac{3}{4}$  of an inch, posts of 2 inches and spaces between the rails of 4 inches.

Zoning Evaluation Division

RECEIVED  
Department of Planning & Zoning  
MAY 30 2013

## 2. Sight Distance Requirements

The split rail fence has an open design so our landscaping grows through the fencing.

The Jerith transparent fence has an open design. The fence blends into the landscape because of its design and coloring. The vertical rails create the illusion to the viewer that it is not there, thus transparent. The open vertical rails allow the vegetation to grow through the rails; again, creating the illusion that there is no fence.

Our yard slopes significantly. There is a 34 foot drop from Virginia Ave to Franklin Ave. On Franklin Ave, neighbors look up the hill into our yard. The view through the fence is of landscaped plantings, trees, and grass.

The fence sets back from the road. Please see the chart of "Feet from Fence to Road, Feet of Plantings." The Virginia Ave fence is between 5 and 12.5 feet from the road. The North Nottingham St fence is between 5 and 16 feet from the road. And the Franklin Ave fence is between 6.5 and 11 feet from the road. There is also a deep ditch running along Franklin Ave.

## 3. Orientation

Our fencing rings our yard.

The split rail fencing has been there since we purchased the home in 1987 and according to the previous owner it was installed in the mid 1970s. It provides a decorative boundary for our lot. It is open and our landscaping cascades through it.

The 5 ft Jerith transparent fence provides security. We have a large wooded yard and it is hard to see the perimeter. We have experienced theft and vandalism. The quiet neighborhood of 1987 we bought into, is no longer here. During the day, we are a cut-through street for many cars. We have construction workers building in our neighborhood constantly. We are also a dark neighborhood at night with few street lights and homes set far back from the curb. Teenagers like to park here. Our fence secures our property. The fence also contains our 3 year old Labrador Retriever and prevents children from accessing our pool.

## 4. Harmonious with Character of Neighborhood

We live in Franklin Forrest, which is a lovely wooded community. Most homes have large yards and the yards and homes are well maintained. Franklin Forrest is a beautiful neighborhood.

Our home's yard has been professionally landscaped. All four sides of the house have been professionally planted and 100% of the ground has been enhanced. Tom Mannion, of Tom Mannion Designs, designed the North Nottingham St and Franklin Ave gardens.

Our back yard (Franklin Ave and Nottingham St) has won a landscaping award and been featured in the following publications:

July 20, 2006 Article in the Washington Post Home section

January 2008 Photos in Sunset's Pools and Spas book

January 2009 Photos in Backyard, A Sunset Design Guide book

Dec 2009 Grand Award/ Landscape Contractors Association, MD DC VA

Winter 2010 Article in The Designer magazine/ Asso. for Professional Landscape Designers

2011 Cover Photo, Call for Entries/ Landscape Contractors Association, MD DC VA

The Cherry Hill Garden Club has toured the backyard.

The yard and the area beyond the fence to the roadside bordering the property are professionally maintained and the grass is cut weekly. While we considered Franklin Ave our

backyard, we do not dump debris or store items on either side of the fence. In fact, the fence is decorated every Christmas with pine roping. We know our neighbors see our backyard every day and we actively work to keep it a pleasant sight.

Our neighborhood has been granted several fence height special permits. The property bordering our home, 2025 Franklin Ave, has a fence height special permit.

Our fence is consistent and harmonious with the character of the neighborhood.

5. No Adverse Impact

Our wooded lot has been enhanced with plants, scrubs and trees around the fence line. Our neighbors compliment our landscaping. We have had people stop and take pictures of themselves with our Jerith fence and landscaping behind them. Our fencing does not adversely impact our neighborhood.

We have only one neighbor who abuts our property. Our 5 foot Jerith fence runs along about 2/3 of our shared property line. He has added no fencing along this section of our fence. On the remaining portion of the fence line we have split rail fencing. At the corner of the property line my neighbor has built a 5 foot plus fence. He has a special permit for his fencing height. Our fencing does not adversely impact our adjacent neighbor.

The corner of North Nottingham St and Franklin Ave is a sharp corner where two streets meet at a right angle. We have landscaped the corner with lower height plantings. We wanted to ensure that drivers coming in any direction could see through the fence and over any plantings. Our fence does not adversely impact car traffic.

Franklin Forrest has no sidewalks. There is between 5 and 16 feet of grass from the roadside to the fence line, which we maintain. Please see the chart of "Feet from Fence to Road, Feet of Plantings." Folks have ample room to step off the road should the need arise. Our fence does not adversely impact pedestrian traffic.

Our fencing adversely impacts no one.

6. Future Landscaping

We live on a wooded lot, professionally landscaped and maintained. Annually we work with our landscaper to plant more trees and flowers. Our current fencing meets our needs. We are not proposing any addition or change to our current fencing.

**Responses to Checklist Items**

Item 5.08 We have no known hazardous or toxic substances on our property.

Item 5.09 Our property conforms to the provisions and all applicable ordinances, regulations and standards of Fairfax County, except for the height of our fencing.

Item 930.17 We are on a wooded lot, landscaped with varying heights of annuals and evergreens. We are not proposing any additional landscaping or change to fencing.

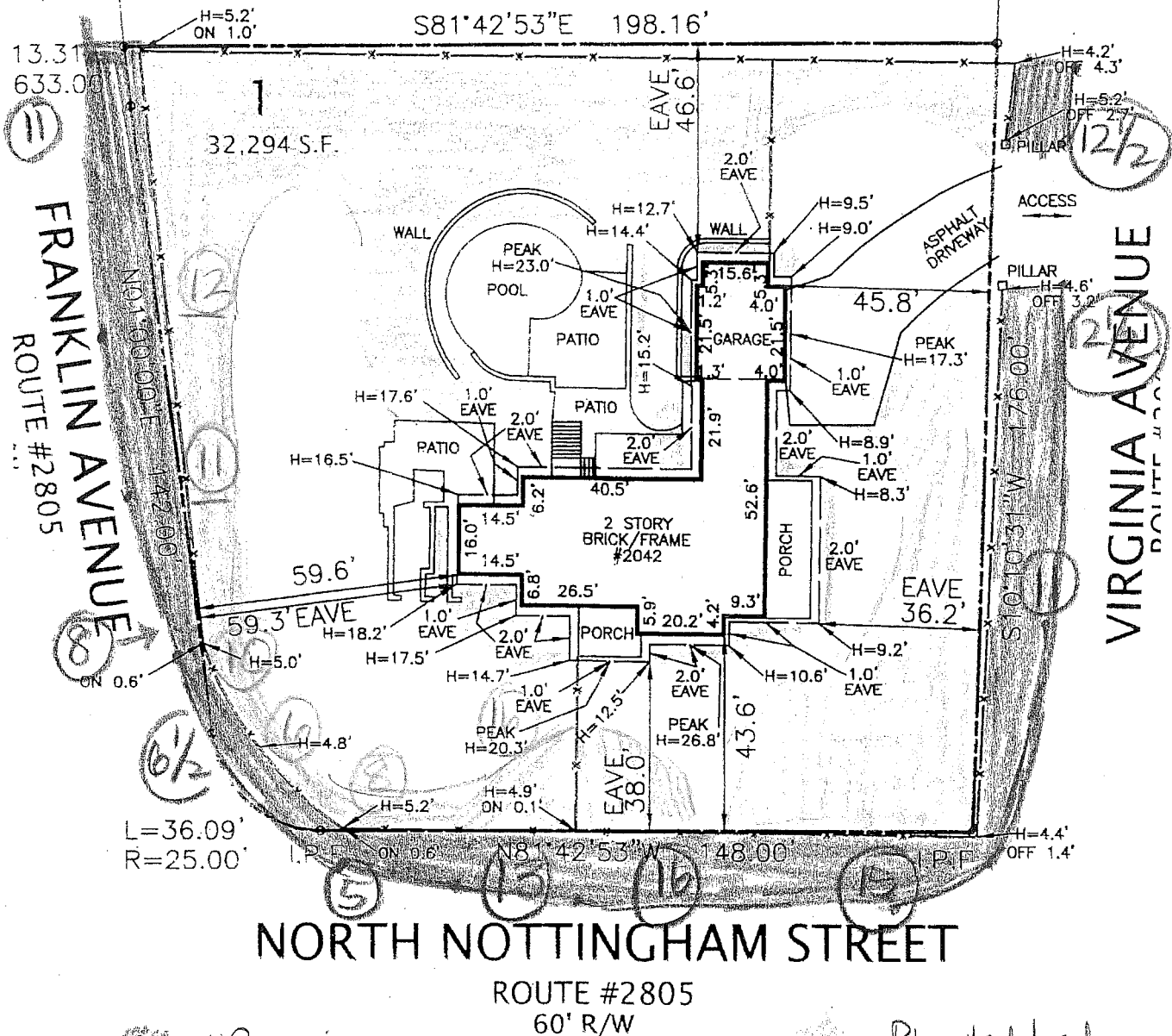
**Summary**

We ask for a special permit for our fence height, allowing us to continue to use our fencing.

Paul and Ann Lawrence  
2042 Virginia Ave, Mclean



Feet From Fence to Road Feet of Plantings

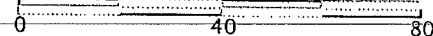


= Grass  
 (n) = Feet to road  
 Example: (11) = 11 feet to road from fence  
 = Planted beds  
 (n) = Feet/width of bed

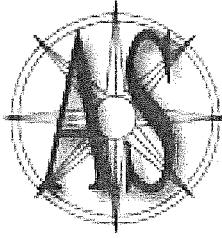
SPECIAL PERMIT PLAT  
 FOR THE PROPERTY LOCATED ON  
 LOT 1 SECTION 2  
**FRANKLIN FOREST**  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE: 1" = 40'      NOVEMBER 14, 2012

AME:

GRAPHIC SCALE



BY PROVISIONS OF THE VIRGINIA CODE. NO CORNER MARKERS SET



**Alexandria  
Surveys**

3949 Pender Drive, Suite 120  
Fairfax, VA 22030-6048  
703-660-6615 FAX 703-768-7764  
asi@alexandriasurveys.com  
www.AlexandriaSurveys.com

December 4, 2012

**Statement of Justification**

Board of Supervisors of Fairfax County, Virginia  
c/o County Attorney's Office  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064

**Re: 2042 Virginia Avenue**

Lawrence, Paul R. and Ann P.  
McLean VA 22101  
Tax Map: 041-1 ((07)) 0001  
Dranesville District #1A61  
(Recorded DB 6613, PG 312)

Dear Sirs and Madams:

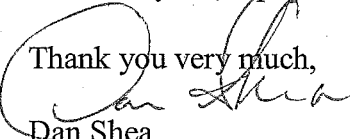
A "Notice of Violation" dated September 27, 2012 was received by the referenced homeowners indicating: Zoning inspections of the above-referenced property concluded on September 11, 2012, revealed that you have installed and continue to maintain a fence which exceeds a height of 4 feet.

Per said letter there was an alternative to removing the fence, of which the owners would like to pursue as follows: As an alternative to reducing the height of the fence or removing the fence from the property in its entirety or in part, you may wish to make application for and ultimately obtain the approval of a Group 9 Special Permit for an increase in Fence and/or Wall Height in Any Front Yard from the Board of Zoning appeals.

The owners are occupying said residence as a single family. No additions are anticipated in the immediate future. The subject fence varies in height from 4.2' to 5.2'. The owners are hereby requesting approval of a Group 9 Special Permit (pursuant to 8-923) for a tolerance in the fence height exceeding the maximum height of 4 feet. The existing fence was installed in 2004. It is constructed of wrought iron and does not prevent vehicles passing by from seeing around the corner. The measured heights are at the post which is 0.3' above the rest making the majority of the fence being at approximately 4'.

Please, consider approving this request and should you have any questions, feel free to contact myself, representative of the owner.

Thank you very much,

  
Dan Shea  
703-660-6615

RECEIVED  
Department of Planning & Zoning

DEC 14 2012

Zoning Evaluation Division



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## NOTICE OF VIOLATION

September 27, 2012

### SHERIFF'S LETTER

Paul R. Lawrence  
Ann P. Lawrence  
2042 Virginia Avenue  
McLean, VA 22101

Re: 2042 Virginia Avenue  
Franklin Forest, Sec. 2, Lot 1  
Tax Map Ref.: 41-1 ((7)) 1  
Zoning District: R-2

Dear Mr. and Mrs. Lawrence:

Zoning inspections of the above-referenced property concluded on September 11, 2012, revealed that you have installed and continue to maintain a fence which exceeds a height of 4 feet, and is positioned on-site, in a front yard, between the single family dwelling and Franklin Avenue, North Nottingham Street and Virginia Avenue. This lot is a corner lot and contains three front yards. One front yard is located between the single family detached dwelling and Franklin Avenue, another front yard is located between the dwelling and North Nottingham Street, and the other front yard is located between the dwelling and Virginia Avenue. None of the aforementioned streets are major thoroughfares. Furthermore, none of the interior angles of the intersecting streets exceed 135 degrees. A corner lot and a front yard are defined in Part 3 of Article 20 of the Zoning Ordinance which states:

**LOT, CORNER:** A lot at the junction of and abutting on two (2) or more intersecting streets when the interior angle of the intersection does not exceed 135 degrees; provided, however, that when one of the intersecting streets is an interstate highway, the resultant lot shall not be deemed a corner lot.

**YARD, FRONT:** A yard extending across the full width of a lot and lying between the front lot line and the principal building.

On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.

Department of Planning and Zoning  
Zoning Administration Division

Zoning Inspections Branch  
12055 Government Center Parkway, Suite 829  
Fairfax, Virginia 22035-5508  
Phone 703-324-4300 FAX 703-324-1343  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



Paul R. Lawrence  
Ann P. Lawrence  
September 27, 2012  
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Par. 3B of Sect. 10-104 sets forth location regulations for fences or walls located in front yards, in part, as follows:

In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted.

Therefore, because your fence does not conform to the height and location regulations set forth in Part 1 of Article 10 of the Zoning Ordinance, you are in violation of the aforementioned Par. 3B of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Fairfax County Zoning Ordinance, which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

You are hereby directed to clear these violations within 30 days of receipt of this notice. Compliance can be accomplished as follows:

- Removing the fence in its entirety from the front yards of the lot; or
- Reducing the fence such that it does not exceed four feet in height within the front yards of the lot.
- As an alternative to reducing the height of the fence or removing the fence from the property in its entirety or in part, you may wish to make application for and ultimately obtain the approval of a Group 9 Special Permit for an Increase in Fence and/or Wall Height in Any Front Yard from the Board of Zoning Appeals. Should you have any questions regarding the Special Permit Application process, please contact the Zoning Evaluation Division at 703-324-1290.
- Note: Those portions of the fence that are located within the Franklin Avenue public street right of way are being referred to the Commonwealth of Virginia Department of Transportation (VDOT). VDOT is the agency that has jurisdiction in the matter of encroachments within the public street rights of way and regulates uses and structures within public street rights of way within the County of Fairfax.

You may have the right to appeal this Notice of Violation within **thirty (30) days** of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. These decisions shall be final and unappealable if it is not appealed within such time periods as described above. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, written statement setting forth the decision being appealed, date of

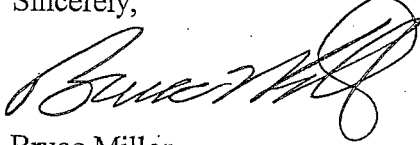
Paul R. Lawrence  
Ann P. Lawrence  
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decision, the grounds for the appeal, how the appellant is an aggrieved party, and any other information you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Failure to respond to and comply with this Notice and or to authorize both interior and exterior inspections to verify compliance will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Contact me directly at 703-324-1391 to schedule a zoning inspection or to discuss these issues. If I am unavailable, you are welcome to leave a message as this phone is equipped with voice mail. Please remember to provide a contact telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Miller", with a large, stylized loop at the end.

Bruce Miller  
Zoning /Property Maintenance Inspector

BM/bm



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

October 24, 2012

Mrs. Ann P. Lawrence  
2042 Virginia Avenue  
McLean, VA 22101

Re: 2042 Virginia Avenue  
Franklin Forest, Sec. 2, Lot 1  
Tax Map Ref.: 41-1 ((7)) 1  
Zoning District: R-2

Dear Mrs. Lawrence:

This is in response to your email received on October 16, 2012, in which you have requested an extension in time in order to comply with the September 27, 2012, Notice of Violation pertaining to the above-referenced property.

Based on the justification provided in the email, you are hereby granted an additional 45-day extension in time. The new date for compliance is December 16, 2012.

If you have any questions, please do not hesitate to contact me at (703) 324-1391 or (703) 324-4300.

Sincerely,

Bruce Miller  
Zoning/Property Maintenance Inspector

BM/bm

# Similar Case History

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## Group: 2007-DR-074

### SP 2007-DR-074

### STAFF REPORT

**APPLICANT:** MICHAEL BRATTI  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 09/25/2007  
**TAX MAP NUMBERS:** 0411-07  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** TO PERMIT EXISTING FENCE GREATER THAN 4.0 FEET IN HEIGHT TO REMAIN IN FRONT YARD  
**LOCATION:** 2025 FRANKLIN AVENUE

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## Group: 91-D -044

### VC 91-D -044

**APPLICANT:** DR. MOTOAKI SATO & NICHOLAS NICOSIA  
**STATUS:** APPLICATION DENIED  
**STATUS/DECISION DTE:** 07/03/1991  
**TAX MAP NUMBERS:** 0411-04  
**ZONING DISTRICT:** R-3  
**DESCRIPTION:** ALLOW 6 FOOT HIGH FENCE TO REMAIN IN FRONT YARDS OF A CORNER LOT (4 FOOT MAX. HEIGHT ALLOWED)(12 MO LIMITATION ON REHEARING WAIVED)  
**LOCATION:** 1872 KIRBY ROAD

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## Group: 92-D -014

### VC 92-D -014

**APPLICANT:** MOTOAKI, NICOSIA, AND NICHOLAS SATO  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 05/01/1992  
**TAX MAP NUMBERS:** 0411-04  
**ZONING DISTRICT:** R-3  
**DESCRIPTION:** ALLOW SIX FOOT HIGH FENCE TO REMAIN IN THE FRONT YARD OF A CORNER LOT (4 FT. MAXIMUM HEIGHT ALLOWED)  
**LOCATION:** 1872 KIRBY ROAD

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## Group: 2007-DR-144

### SP 2007-DR-144

### STAFF REPORT

**APPLICANT:** ADAM JAY RUTTENBERG  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 02/12/2008  
**TAX MAP NUMBERS:** 0411-07  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** TO PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ROOFED DECK 10.6 FT. FROM ONE SIDE LOT LINE, DWELLING 12.2 FT. FROM OTHER SIDE LOT LINE AND FENCE GREATER THAN 4.0 FT. IN HEIGHT TO REMAIN IN FRONT YARD  
**LOCATION:** 2021 FRANKLIN AVENUE

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**8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.



**8-903 Standards For All Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

**8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard**

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.

- E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of a well and/or septic field.
  - I. If applicable, existing gross floor area and floor area ratio.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.